

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
20TH JUDICIAL DISTRICT, DAVIDSON COUNTY,

STATE OF TENNESSEE)	
)	
Plaintiff,)	
)	
v.)	No. 95-415-III
)	
GROSSMAN HYPNOSIS)	
METHOD, INC., a foreign)	
corporation, also known as)	
AMERICAN INSTITUTE OF)	
SMOKING CESSATION,)	
)	
Defendant.)	

ORDER GRANTING SUMMARY JUDGMENT

This matter came before the Court on _____, 1999 upon the plaintiff’s Motion for Summary Judgment. After hearing the evidence presented and a review of the record, the Court is of the opinion that the Plaintiff’s Motion should be granted. Therefore, it is ordered pursuant to the Tennessee Rules of Civil Procedure 12.03 and 56.01 that judgment is granted against the Defendant as follows:

- 1. Pursuant to Tenn. Code Ann. § 47-18-108(a)(1) and (4), the Defendant, its agents, representatives, employees, successors and assigns, and all persons acting or claiming to act on its behalf, through any corporate or business name or device, are permanently enjoined from directly or indirectly:
 - a. Using the advertisement which is the subject of this litigation in any manner or medium in the State of Tennessee;
 - b. Making any scientifically unsubstantiated claims as to any characteristic or benefit if its hypnosis seminars or any other type of service;

c. Claiming any certification that does not originate from the State of Tennessee or the locality from which the claims are made unless the source and location of the certification is clearly and conspicuously identified;

d. Claiming that a service will be completely successful to all consumers without providing a legitimate guarantee that allows consumers a period of time to ascertain their satisfaction with the success of the service; and

e. Offering a gift as part of a promotion without fully complying with Tenn. Code Ann. § 47-18-120.

2. Pursuant to Tenn. Code Ann. § 47-18-108(b)(1) and the Defendant's "guarantee," judgment is entered against the Defendant requiring it to restore to any consumer the ascertainable losses sustained by reason of the Defendant's conduct based on the subject advertisement. Any consumer who files a complaint and proof of attendance at Defendant's seminar to the Tennessee Division of Consumer Affairs within 30 days of the entry of this Order will be entitled to a full refund of any money paid to Defendant regarding such seminar.

3. Pursuant to Tenn. Code Ann. § 47-18-108(b)(3), judgment is granted against the Defendant as a civil penalty of \$1,000.00 per violation of the Tennessee Consumer Protection Act. The Court finds no less than twelve separate violations of the Consumer Protection Act, and therefore assesses against the Defendant a total civil penalty of \$12,000.00.

4. Pursuant to Tenn. Code Ann. § 47-18-108(a)(5) and (b)(4), judgment is entered against the Defendant for the reasonable costs, expenses and attorneys' fees incurred in the investigation and prosecution of this matter in the amount of \$2,632.00, which may be used for consumer protection purposes at the sole discretion of the Attorney General and Reporter.

5. Pursuant to Tenn. Code Ann. § 47-18-116, all costs associated with this action are taxed to the Defendant. No costs are to be taxed to the State.

CHANCELLOR

SUBMITTED FOR ENTRY:

Jennifer L. Rawls
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Assistant Attorney General

Timothy C. Phillips
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CERTIFICATE OF SERVICE

I do hereby certify that on October ____, 1999, a copy of the foregoing document was forwarded by first-class mail, postage pre-paid, to Kenneth Grossman, Grossman Hypnosis Method, Inc., Suite 9-381, 88005 Overseas Highway, Islamorada, Florida 33036.

JENNIFER L. RAWLS
Assistant Attorney General

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